

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 02-60314- CIV-MARTINEZ
MAGISTRATE JUDGE LYNCH

ACCESS FOR THE DISABLED, INC. and
ROBERT COHEN,

Plaintiffs,

vs.

BRINKER FLORIDA, INC., a foreign
corporation, and NICHOLAS CASSAS, an
individual,

Defendants. /

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

AFFIDAVIT OF JEFFERY GROSS

BEFORE ME, the undersigned authority, personally appeared JEFFERY GROSS, who being by me first duly sworn, deposes and says that:

1. I am over the age of 18 years and make this affidavit of personal knowledge.

2. I am an architect licensed in the State of Florida and have been so licensed since 1974.

3. As a practicing architect in South Florida, I have knowledge of the requirements of the Americans with Disabilities Act Accessibility Guidelines ("ADAAG"), Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181, *et seq.* (the "ADA"), and the Florida Accessibility Code for Building Construction.

NIGHT BOX
FILED

JAN 10 2003

CLARENCE MADDOX
CLERK, USDC / SDFL / MIA

W2/

4. I am a principal in Jeffery Gross / Associates / Architects P.A. and have been retained as an ADA expert by defendant Brinker Florida, Inc. ("Brinker") in this matter.

5. In connection with my retention as an ADA expert in this matter, I received and reviewed, among other things, the Complaint and the expert report of Mr. Thomas Ricci of Accessibility Disability Consultants dated November 2, 2002 (the "Plaintiffs' Report"). (See my earlier affidavit, sworn to and subscribed on November 25, 2002, and filed contemporaneously with Brinker's Motion for Summary Judgment (the "Motion"), ¶¶ 6-9)

6. I also attended plaintiffs' site inspection on October 30, 2002, at the Chili's Grill & Bar located at 1650 University Drive in Coral Springs, Florida (the "Property").

7. I thereafter received and reviewed a copy of Mr. Ricci's December 12, 2002 report following a supplemental inspection Mr. Ricci apparently conducted at the Property ("Plaintiffs' December Report").

8. Mr. Ricci, in Plaintiffs' December Report, concedes that (i) all previously noted ADA items have been modified in the Men's Room and (ii) all other interior items at the restaurant have been modified, except for a "smoking" designation at an accessible fixed table. While Mr. Ricci states that he could not gain entry to the Women's Room, I have already attested to the modifications completed in the Women's Room and confirmed that all ADA items raised in plaintiffs' Complaint and Report have been modified to ensure ADA compliance. (See my November 25th Affidavit, ¶¶ 12(11) – (17)) Mr. Ricci does not dispute these facts.

9. Since receiving Plaintiffs' December Report, I re-inspected the Property. The Property is now a non-smoking restaurant and, as such, there is no designated smoking section. All tables, whether modified or not, are non-smoking tables. Because the Property is entirely non-smoking, there is no provision for a smoking section or table. (See photographs annexed hereto as Exhibit "A")

10. In addition, Brinker has begun the exterior modifications at the Property that plaintiffs itemized in their Complaint and Report, and that plaintiffs reiterated in their December Report. Those modifications are based upon my architectural drawings. (See my November 25th Affidavit, ¶ 10)

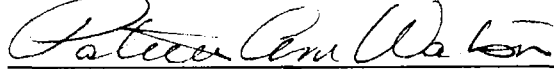
11. Accordingly, based upon my review of the Property, my review of the Complaint, Plaintiffs' Report, and Plaintiffs' December Report, and my review of the written policies addressing staff handling of individuals with disabilities that Brinker has now implemented at the Property, to the best of my professional opinion and belief, Brinker has addressed each and every ADA item plaintiffs have placed at issue in this matter. (See *also* my November 25th Affidavit, ¶¶ 10-15)

FURTHER AFFIANT SAYETH NAUGHT


JEFFERY GROSS

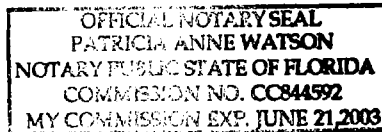
The foregoing instrument was acknowledged before me this ____ day of January, 2003, by JEFFERY GROSS, who is personally known to me or has produced _____ as identification and whom did/did not take an oath.

NOTARY PUBLIC, State of Florida at Large


Type or Print Name PATRICIA ANNE WATSON

My commission expires:

6-21-03





Composite Exhibit A

